

11. PLANNING/PROGRAM OF PROJECTS

BASIC REQUIREMENT (PLANNING)

The grantee must participate in the transportation planning process in accordance with FTA requirements, [SAFETEA-LU](#), and the Metropolitan and Statewide Planning Regulations.

BASIC REQUIREMENT (POP)

Each recipient of a grant shall have complied with the public participation requirements of Section 5307(c)(1) through (7). Each recipient is required to develop, publish, afford an opportunity for a public hearing on, and submit for approval a Program of Projects (POP).

Note: [FTA C 9030.1C](#) Chapter V, Section 6f states: FHWA and FTA have decided that when a grant applicant follows the procedures of the public involvement process outlined in the FHWA/FTA planning regulations, the grant applicant satisfies the public participation requirements associated with the program of projects that grant applicants for Urbanized Area Formula Program funds must meet. Grantees that choose to integrate the two should coordinate with the Metropolitan Planning Organization (MPO) and ensure that the public is aware that the Transportation Improvement Plan (TIP) development process is being used to satisfy the public hearing requirements of Section 5307. The grant applicant must explicitly state that public notice of public involvement activities and time established for public review and comment on the TIP will satisfy the program-of-projects requirements of the Urbanized Area Formula Program. In addition, the TIP, as well as other appropriate planning documents, must state that the public involvement procedures associated with TIP development were used to satisfy the program-of-projects requirements of Section 5307.

BASIC REQUIREMENT (JARC AND NEW FREEDOM)

Grantees must develop and or participate in a locally developed, coordinated public transit-human services transportation plan ("coordinated plan") that identifies the transportation needs of individuals with disabilities, older adults, and people with low

incomes, provides strategies for meeting those local needs, and prioritizes transportation services for funding and implementation.

Designated recipients for JARC and/or New Freedom funds are responsible for program administration in the nine (9) cited elements in [FTA C 9045.1](#) and [FTA C 9050.1](#), Chapter II and III.

Note To Reviewers: The designated recipient for both 5316 and 5317 funds is responsible for conducting the competitive selection process. However, the designated recipient may establish alternative arrangements to administer and conduct the competitive process. For example, the MPO could be the lead agency for the competitive selection, even if it is not the designated recipient. Alternatively, the designated recipient may, through interagency agreement or third party contracts, provide for the administrative management and oversight of the competitive selection process.

Funds are obligated based on the annual program of projects included in a grant application. FTA does not conduct project-by-project review and approval of each project. The recipient must ensure that local applicants and project activities are eligible and in compliance with Federal requirements and that the program provides for maximum feasible coordination of transportation services assisted under JARC and New Freedom with transportation services assisted by other Federal sources. In addition, the recipient monitors local projects; ensures that all program activities are included in a Statewide Transportation Improvement Program (STIP); and oversees project audits and closeouts. The recipient must certify to FTA annually that the recipient and subrecipients have met or will meet all Federal requirements, including all metropolitan and statewide planning requirements. Once FTA has approved the application, funds are available for administration and for allocation to individual subrecipients.

AREAS TO BE EXAMINED

1. **Background Information**

These questions provide information on the last Planning Certification Review and Metropolitan and Statewide Planning findings.

2. **Planning Process**

These questions

- a. review how the grantee participates in the metropolitan transportation planning process, and
- b. assess the grantee's role in 5316 (JARC), and 5317 (New Freedom) funding activities.

3. **Public Participation Requirements**

The grantee must meet the public participation requirements specified in the regulations and [SAFETEA-LU](#). This can be done in one of two ways.

- a. The grantee may rely on the MPO's public participation requirements and at the same time satisfy the separate requirements for the Program of Projects (POP). Under this approach, the POP typically is part of the public participation process for the TIP for the region. If the grantee chooses to rely on the MPO, the MPO's Participation Plan must meet the requirements for public participation in the planning regulations. Further, the public notice must state explicitly that this will satisfy the POP requirements. The TIP, as well as other appropriate planning documents, must state that the public involvement procedures associated with TIP development were used to satisfy the program-of-projects requirements of Section 5307
- b. The grantee may publish a separate POP. When the grantee does this, the publication of the POP must be done in accordance with FTA requirements for POP public participation. The POP

requirements only are checked when the grantee is not relying on the MPO procedures. They are not checked if the grantee's notice is over and above the basic requirements, which the MPO is satisfying.

Note to Reviewers: Grantees subject to triennial reviews typically are public transit operators, not MPOs. The planning regulations are oriented to the MPO. The transit operator is expected to be a participant in the metropolitan transportation planning process, but usually will not have primary responsibility for planning activities. Reviewers should be cautious in wording corrective actions since the grantee may not have the ability to change activities performed by the MPO. The grantee may only be able to request that a change be made. Nonetheless, the triennial review is an opportunity to review the grantee's participation in and the effectiveness of the regional process from the grantee's perspective.

REFERENCES

1. [49 USC Chapter 53](#), Federal Transit Laws, as amended by the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* ([SAFETEA-LU](#)).
2. [23 USC Section 134](#), Federal Aid Highways, "Metropolitan Planning."
3. [23 CFR Part 450](#), "Planning Assistance and Standards."
4. [FTA Circular 9030.1C](#), "Urbanized Area Formula Program: Grant Application Instructions."
5. [FTA Circular 9050.1](#), "The Job Access and Reverse Commute (JARC) Program."
6. [FTA Circular 9045.1](#), "New Freedom Program Guidance and Application Instructions."

QUESTIONS FOR THE REVIEW

Part A. Background Information

1. *Is the grantee located in a designated Transportation Management Area (TMA) (i.e., population 200,000 or more)? If yes, when was the last Planning Certification Review (PCR) completed by FHWA/FTA? Did the grantee participate in the review and have an adequate opportunity for input? Are there any outstanding corrective actions and/or recommendations from the PCR that pertain to the grantee?*

If the grantee is not in a TMA (population under 200,000), are there any outstanding corrective actions and/or recommendations from the Metropolitan Planning or Statewide Planning findings that pertain to the grantee?

2. *What is the name of the designated MPO for this area?*

EXPLANATION

The reviewer should determine if the grantee is located in an area with a population of 200,000 or more persons, which is a designated Transportation Management Area (TMA) for planning purposes. In TMAs, FTA and FHWA will have conducted a Planning Certification Review (PCR) in the past three to four years. The PCR process includes input from participants in the planning process, including the grantee.

As with other oversight reviews, the triennial review process verifies the status of corrective actions and/or recommendations from the PCR. In this case, however, it is important to distinguish between all open corrective actions and/or recommendations and those that pertain to the grantee. The triennial review focuses on the latter only.

In areas with a population of less than 200,000, FTA/FHWA assess the metropolitan planning processes and make a Metropolitan Planning Finding. This mechanism is the principal venue of FTA/FHWA planning oversight in smaller urbanized areas. Grantees in non-TMAs self-certify compliance with the planning requirements. Furthermore, all States must

make a Statewide Planning Finding as the basis for approving the Statewide TIP, and this Statewide Finding should list all concerns with the performance of planning processes in all urbanized (and non-urbanized) areas throughout the State.

REASON FOR THE QUESTION

Input to triennial review.

SOURCES OF INFORMATION

During the desk review, look for this information in the planning files in the regional office and from discussions with the planners on the regional staff. Files from the PCR should include a copy of the final report and documentation of follow-up actions. Note when the review was completed and what the corrective actions and/or recommendations were if they impact the grantee. Also in the planning files for the state in which the grantee is located should be information on any Metropolitan Planning Findings for grantees in areas with population less than 200,000. Review this information along with the Statewide Planning Finding for anything pertinent to the grantee.

At the site visit, ask the grantee about its participation in the PCR.

DETERMINATION

None

SUGGESTED CORRECTIVE ACTION

None

Part B. Planning Process - MPO

3. *Does the grantee have an agreement with the MPO that specifies cooperative procedures for carrying out transportation planning and programming? What is the nature of the agreement? Does the agreement reflect current requirements and current participants? What is the date of the agreement/document?*
4. *How does the grantee participate in the MPO planning process and in development of the Long Range (20-year) Plan? Are transit projects included in the Long Range Plan? Are there any New Starts projects?*

5. *Who develops the financial and travel demand forecasts that are used in preparing the TIP and the Long Range Plan? Does the grantee participate cooperatively with the MPO in developing these forecasts?*

EXPLANATION

The planning regulations state “The MPO, the State(s), and the public transportation operator(s) shall cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process.” This includes routine planning products as well as corridor and sub-area studies.

The regulations require a written agreement that identifies these planning responsibilities and that includes specific provisions for development of financial plans to support the metropolitan transportation plan, the metropolitan TIP, and the annual listing of obligated projects. This specific requirement, originally from ISTEA, is included in the new planning regulations along with an expanded list of parties that have to be included in the planning process. Grantees and MPOs were expected to review any existing agreements to ensure they continued to meet the requirements. If existing agreements did not meet the requirements, grantees and MPOs were to adopt new agreements that did.

The MPO typically will comprise a policy committee of local elected officials and a technical committee of the senior transportation planning staff of the participating agencies. As the provider of public transportation, the grantee should have a meaningful role in the planning process. It is not required that the transit operator have a major role in the planning process, although it is strongly encouraged. What is required is that the region follows whatever role is defined for the grantee in the agreement.

The Federal Transit Laws (the Law) spell out additional requirements including the Annual Listing of Projects. Although the responsibility to publish the list of obligated projects is the MPO’s, the agreement should address how the transit agency will provide this information. The Law also requires that the MPO, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation. This is a necessary step for development of the TIP and should be addressed in the Agreement. Finally, the Law requires that before approving a long-range transportation plan, each MPO must provide interested parties including “representatives of transportation agency employees and representatives of users of public transit,” and other interested parties with a reasonable opportunity

to comment on the long-range transportation plan. The agreement should describe how this will be accomplished.

Any financial or travel demand forecasts related to transit services, that appear in the TIP and the long-range plan, need to be developed cooperatively by the MPO and the transit operator. It is important to check that the MPO is not preparing this information without the input of the transit operator.

REASON FOR THE QUESTION

[23 USC 134](#) (f)(1); (g)(2)(B); (g)(4); (h)(4); (h)(7)(B)

[49 USC 5303](#) (a); (f)

[49 USC 5304](#) (a); (b)

[23 CFR 450.310](#), 314, and 316

SOURCES OF INFORMATION

At the desk review, check the planning files for a copy of a current agreement or similar documentation (e.g., the most recent Unified Planning Work Program - UPWP). Obtain this information from the grantee on site if it is not available in the regional office. Review the information in the planning files in the regional office for a list of policy and technical committee members. If the date of the current agreement precedes the passage of TEA-21 or SAFETEA-LU, the reviewer should inquire whether the grantee and/or the MPO has reviewed the agreement and affirmed that it continues to meet the planning requirements.

DETERMINATION

If the grantee has an agreement with the MPO that meets the requirements, the grantee is not deficient. If there is an agreement, but it does not meet all of the requirements, the grantee is deficient. If the current agreement with the MPO is outdated, but the grantee and MPO have re-affirmed that it continues to meet the requirements, the grantee is not deficient. If neither the grantee nor the MPO can demonstrate that an out-of-date agreement continues to meet the planning requirements, the grantee is deficient.

If the grantee is participating fully, it is not deficient. If the grantee is included in the process but some decisions and/or financial/travel demand forecasts regarding transit services have been made without the transit operator’s full participation, if transit employees and users are not afforded an opportunity to comment on the long-range plan and TIP, or if the grantee is not participating in the process at all, the process is deficient and the grantee is deficient.

SUGGESTED CORRECTIVE ACTION

The grantee needs to be party to an agreement that meets the requirements. Executing this agreement will require the interaction of several parties, and will be led by the MPO. The grantee will need to work with the MPO to complete this process. The grantee should provide FTA with a schedule for providing a

fully executed agreement. The grantee, working with the MPO, should provide an action plan for improving its participation.

Part C. Planning Process – JARC and New Freedom

6. *Is the grantee a designated recipient or subrecipient of 5316 JARC and/or 5317 New Freedom funds?*
7. *If yes, how does the grantee:*
 - a. *Notify eligible local entities of funding availability?*
 - b. *Develop project selection criteria?*
 - c. *Determine applicant eligibility?*
 - d. *Conduct the competitive selection process?*
 - e. *Ensure that all subrecipients comply with Federal requirements?*
 - f. *Document the designated recipient's procedures in a Program Management Plan as appropriate?*
 - g. *Allocate grants to subrecipients on a fair and equitable basis?*
 - h. *Derive projects from a locally developed, coordinated public transit-human services transportation plan developed through a process that consists of representatives of public, private, and non-profit transportation and human services providers, with participation by the public?*
8. *If the grantee is a sub-recipient, what role does the grantee play in the coordinated planning process?*

EXPLANATION

Federal transit law, as amended by SAFETEA-LU, requires that projects funded from the Elderly Individuals and Individuals with Disabilities (Section 5310), Job Access and Reverse Commute, (Section 5316), and New Freedom (Section 5317) programs be derived from a locally developed, coordinated

public transit-human service transportation plan ("coordinated plan"). A coordinated plan should maximize the programs' collective coverage by minimizing duplication of services. Further, a coordinated plan should be developed through a process that includes representatives of public, private and non-profit transportation and human services providers, and participation by the public. A coordinated plan may incorporate activities offered under other programs sponsored by Federal, State, and local agencies to greatly strengthen its impact. FTA also encourages participation in coordinated service delivery as long as the coordinated services will continue to meet the purposes of all programs.

In particular, it is important for the designated recipient of these funds to provide evidence of outreach for participation to local entities in the planning process.

REASON FOR THE QUESTION

[Federal Transit Laws, Title 49, United States Code, Chapter 53](#)

[Federal Register](#) notice published March 29, 2007 (72 FR 14851)

[FTA C 9045.1, Ch. II, Section 4.a-i](#)

[FTA C 9050.1, Ch. II, Section 4.a-i](#)

SOURCES OF INFORMATION

Information provided by the regional office and the grantee prior to and during the site visit will give the reviewer information on the coordination, outreach and projects funded by JARC or New Freedom grants. At the site visit, discuss how the grantee handles relevant grant management requirements and review documentation of implementation of the elements noted above.

DETERMINATION

If the grantee is the designated recipient or subrecipient of funds and has included each of the above elements in its management of JARC and New Freedom grants, it is not deficient. If any of the elements are missing, and grant-funded projects are being implemented, it is deficient.

SUGGESTED CORRECTIVE ACTION

The grantee needs to provide evidence to the regional office demonstrating that any missing elements have been included in the JARC and New Freedom process.

9. *If the grantee is not the designated recipient or subrecipient for JARC and New Freedom funds, is the grantee participating in the coordinated planning process for JARC and New Freedom?*

EXPLANATION

FTA's JARC and New Freedom Circulars note that recipients of Section 5307 and Section 5311 assistance are the "public transit" in the public transit-human services transportation plan and their participation is assumed and expected. Further, Section 5307(c)(5) requires that, "Each recipient of a grant shall ensure that the proposed program of projects (POP) provides for the coordination of public transportation services ... with transportation services assisted from other United States Government sources."

REASON FOR THE QUESTION

FTA C 9045.1, Ch. V, Section 4.d

FTA C 9050.1, Ch. V, Section 4.d

SOURCES OF INFORMATION

During the site visit, request information that demonstrates how the grantee is participating in the coordinated planning process, even if they are not the designated recipient for JARC and New Freedom funds. This can include attendance at meetings, and provision of information to the designated recipient of JARC and New Freedom funds or the MPO.

DETERMINATION

If the grantee has participated in the coordinated planning process, it is not deficient. If the grantee has not participated in, or does not have plans to participate in the coordinated transportation planning process, it is deficient.

SUGGESTED CORRECTIVE ACTION

Develop a participation plan and submit to the regional office.

Part D. Public Participation Requirements

10. *Does the grantee rely on the MPO's public participation process to satisfy its public participation requirements for the Program of Projects?*
11. *If yes, does the MPO have an adopted participation plan? What is the date of the document? Does the plan include private transportation providers? Does the plan include users of public transit? Has there been a periodic review of the effectiveness of the public involvement process? If yes, when?*

12. *If the grantee relies on the MPO's participation plan, how does the grantee coordinate with the MPO to ensure that the public is aware that the TIP development process satisfies the POP public participation requirements? Is this stated explicitly in the public notice?*
13. *If the grantee does not rely on the MPO, does the grantee publish its own Program of Projects? Has the grantee followed all of the POP Public Participation Requirements?*
 - a. *Has the grantee made available to the public information on amounts available to the recipient under Section 5307 and the program of projects it proposes to undertake?*
 - b. *Did the grantee develop a proposed POP in consultation with interested parties, including private transportation providers?*
 - c. *How did the grantee ensure that the proposed POP provided for coordination of mass transportation services assisted by other federal sources?*
 - d. *Was the proposed POP published in a manner that afforded citizens, private transportation providers, and local elected officials an opportunity to examine its content and to submit comments on the proposed program and the performance of the recipient?*
 - e. *Was an opportunity for a public hearing provided?*
 - f. *Were comments or complaints filed as a result of the publication of the POP? How were such comments considered in preparing the final POP?*
 - g. *Was the final POP made available to the public?*

EXPLANATION

There are two separate public participation requirements. The planning regulations require that the metropolitan transportation planning process include a proactive participation plan that provides

complete information, timely public notice, reasonable public access to key decisions, and supports early and continuing involvement of the public in developing plans and TIPs. (The grantee's projects must be programmed in the TIP to be eligible for funding.) Such procedures shall include opportunities for interested parties including citizens, affected public agencies, representatives of transportation agency employees, and private providers of transportation to be included in the early stages of the plan development/update process. [TEA-21](#) added a provision that representatives of users of public transportation be provided a reasonable opportunity to comment on proposed plans and programs. TEA-21 also added the requirement for a periodic review of the effectiveness of the public involvement process. In air quality non-attainment areas classified as serious and above, the comment period for planning documents and TIPs must be at least 30 days. [SAFETEA-LU](#) expanded the named planning participants to include representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of persons with disabilities, and other interested parties in order to provide them with a reasonable opportunity to comment on the transportation plan.

Grantees also have specific requirements for public participation related to the Program of Projects (POP). [FTA C 9030.1C](#) (Section V.6.f) allows a grantee to rely on the locally adopted public participation requirements of the overall metropolitan planning process in lieu of the process required in the development of the POP, provided that the transit operator explicitly states this in the locally adopted public participation process.

When the grantee is relying on the MPO's participation plan in lieu of a separate POP process, the reviewer should determine if the MPO's process meets the requirements in the planning regulations. These requirements include provisions of Title VI, such as communication with a significant minority of non-English speaking individuals. The grantee should be coordinating with the MPO and ensuring that the public is aware that the TIP development process is being used to satisfy the public hearing requirements of Section 5307. The public notice must have an explicit statement that public notice of public involvement activities and time established for public review and comments on the TIP will satisfy the Program of Projects requirements.

The MPO should assess the effectiveness of its public participation procedures on a regular basis to assure that the desired level of public input is being received and that the required participants are receiving information prior to decisions being made.

Review the MPO's procedures if the grantee is relying on the MPO to satisfy public participation requirements on the POP. Check the PCR for

corrective actions and recommendations that needed to be made in the public participation program. In all other situations, review whether the grantee meets the specific POP public participation requirements. If the agreement assigns this responsibility to the transit operator, the operator must comply with the specific requirements for POP public participation. If there is no current agreement assigning responsibility to the MPO, the grantee remains responsible for POP public participation. In some cases, the MPO procedures may be adequate but the grantee will supplement this with a separate notice to provide more transit-specific public information. In this case, the specific POP public participation requirements are not applicable.

The specific public participation requirements for the POP are defined below.

- *Availability of Public Information on the POP, Public Notice on the POP, Opportunity for Public Hearing, and Consideration of Comments and Availability of the Final POP:* The grantee must inform the public of the amount of funds available under Section 5307 and the capital, operating, and planning projects proposed to be undertaken. The public announcement that summarizes the POP also needs to indicate where citizens can examine the proposed program and budget in detail and submit comments on the proposed program and the performance of the recipient.

This notice is published in the general circulation newspaper in the service area of the grantee. If the community has a large minority of non-English speaking persons, the notice also should be published in a non-English publication.

Most grantees combine this notice with an announcement that the proposed POP is available for review and that, if requested, a public hearing will be held. Some local laws or grantee policies make the public hearing mandatory.

The grantee is required to consider comments from the public in preparing the final POP. In addition to the proposed POP, the grantee must make the final POP available to the public.

- *Consultative Process:* The grantee is to develop the POP in consultation with interested parties, including private transportation providers. The grantee may rely on the MPO to assist in this process. A Transportation Advisory Committee of the MPO may be informed or used as a reviewer of the POP. Private providers should be involved throughout this process. Grantees sometimes rely on the general publication in the newspaper and on the public hearing process as a means for consulting with interested parties, including private providers. The requirement is

that a consultative process be used to develop the proposed POP. Relying on the public hearing process, which occurs after a proposed POP has been developed, is not sufficient.

- **Coordination:** The grantee is required to ensure that the POP provides for coordination of federally assisted mass transportation services. This assurance is included in the Annual List of Certifications and Assurances. Coordination may occur at many levels, from simple information sharing to total consolidation of services.

REASON FOR THE QUESTION

23 CFR 450.316 and 324

FTA C 9030.1C, Ch. V, Section 6

SOURCES OF INFORMATION

At the site visit, discuss how the grantee handles the public participation requirements. If the grantee is relying on the MPO, obtain a copy of the participation plan. Verify that it includes consultation with interested parties, including private providers of transportation, outreach to users and other affected groups, and ongoing public involvement. Confirm that the procedures have been reviewed regularly for their effectiveness. Review the PCR for any relevant findings. Review the public notices for the TIP and documentation for recent publications to confirm that these procedures are being followed. If the grantee is relying on the MPO for these activities, the TIP notice should state explicitly that this includes the grantee's POP. The grantee may need to obtain the documentation from the MPO in preparation for the site visit.

If the grantee is publishing a separate notice of its POP, the reviewer will need to determine why. If the grantee is doing so as its primary public participation approach, rather than relying on the MPO procedures, all POP-related information must be obtained.

The grantee should provide public notices for the past three years. The grantee should be asked to describe the consultative process (e.g., membership of a transportation advisory committee). The grantee should explain how coordination was ensured as the POP was developed.

The publication of the proposed and final POP can show how the POP was made available to the public. Written comments received by the grantee and transcripts of public hearings will document the grantee's process. Where comments have been received, internal reports that address the comments should exist and be provided to the reviewer.

DETERMINATION

Review the public participation procedures that the entities participating in the planning process have defined. If they contain all required elements as

described above, the grantee is not deficient. If elements are missing (e.g., the procedures do not include transit users), the grantee is deficient. If the public notices have not provided adequate information, or adequate review time in non-attainment areas, or do not have an explicit statement that public notice for the TIP will satisfy the Program of Projects requirements, the grantee is deficient. If the MPO carries out these activities and is not involving the grantee, contrary to the agreement, the process is deficient. The grantee should be an active participant in this process. Any other inadequacies in the public participation process, such as inadequate consultation with key parties for a particular project, could result in a deficiency finding. Similarly, lack of documentation to support the adequacy of the process should result in a finding of deficient.

If there is an agreement that clearly defines POP public participation responsibilities, procedures have been defined that meet the public participation requirements, and actual practices are consistent with the agreement, the grantee is not deficient with the POP public participation requirements. Further determinations should be made only if the grantee is carrying out the POP procedures directly rather than relying on the MPO's public participation procedures.

When the grantee is responsible for publishing the POP, the following determinations should be made: If the grantee has failed to publish a POP in an appropriate local publication, has failed to provide sufficient detail in the announcement, or has failed to offer an opportunity for a public hearing, the grantee is deficient. If the grantee has published in a newspaper of general circulation, but has failed to communicate to a significant minority of non-English speaking individuals, the grantee should be found deficient.

If the grantee has a consultative process for the POP, which can include the MPO, it is not deficient. If the grantee does not have a consultative process (e.g., does not attempt to solicit opinions of others, does not mail a notice of its plans for developing the POP to private providers, does not have an ongoing public participation process, etc.), the grantee is deficient. The grantee is deficient if there is no evidence that a good faith effort toward service coordination was made as the POP was being developed.

If an opportunity for a public hearing was given, the grantee is not deficient. If due consideration was given to public comments, the grantee is not deficient.

If the proposed POP contains a statement that the proposed program also will be the final program unless amended, this will meet the requirements regarding the final POP. If the statement is missing from the proposed POP publication and a final publication is not made, or if the POP is changed without a second notification, the grantee is deficient.

SUGGESTED CORRECTIVE ACTION

The grantee must develop and implement a public participation process that complies with the regulatory requirements and must maintain documentation to demonstrate that the process has been followed. Where the grantee is relying on the MPO for these activities, the two entities need to work together to address these deficiencies. Where the MPO is responsible for public participation, the grantee needs to submit an action plan and schedule showing how this will be resolved.

If the grantee publishes a separate POP, and this process is deficient, the grantee will need to make appropriate changes. For example, the wording of the announcement may need to be changed to indicate where the POP is available for review or to ensure there is sufficient detail describing the POP.

Since the publication of the POP is an annual event, the timetable of the corrective action will depend upon the next publication date. If the publication date is imminent, the grantee should make the appropriate changes and forward a copy of the public notice to the regional office. If the publication of the POP is more than three months in the future, the grantee should be required to provide generic language and/or a statement that it has implemented the appropriate procedures (e.g., publication in a second newspaper) in its POP process or indicate it will do so with its next publication.

14. *Since the last Triennial Review, has the grantee had any complaints or lawsuits with respect to:*

- a. *Public involvement?*
- b. *Environmental justice?*
- c. *Air quality conformity?*
- d. *Other metropolitan and statewide planning requirements?*

If yes, what was the nature of the complaint/lawsuit? How were these complaints/lawsuits resolved? Are any pending?

EXPLANATION

The existence of complaints and lawsuits can indicate a deficiency in the regional transportation planning process. This question delves into the effectiveness of the existing procedures for public involvement, environmental justice, air quality conformity, and other aspects of the planning requirements.

REASON FOR THE QUESTION

Input to risk assessment and the review.

SOURCES OF INFORMATION

This information may be available during the desk review from FTA staff that works with the grantee. The Regional Counsel also may be aware of any complaints and lawsuits. Additional information will be provided by the grantee at the site visit.

DETERMINATION

None

SUGGESTED CORRECTIVE ACTION

None